



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JAMIE CONELY,

Plaintiff,

vs.

CAPITAL ONE FINANCIAL  
CORPORATION EMPLOYEE WELFARE  
BENEFITS PLAN; CAPITAL ONE  
FINANCIAL CORPORATION,

Defendants.

CASE NO. 06cv2330 JM(WMc)

ORDER GRANTING LEAVE TO  
AMEND

Plaintiff moves for leave to amend her ERISA complaint to assert claims against four additional defendants and to assert an additional cause of action for declaratory relief. Defendants do not oppose the motion but filed a notice on July 24, 2007 indicating their belief that Plaintiff missed the employee benefit plan's deadline for timely electing medical coverage. On August 9, 2007 Defendants filed a second notice indicating that they had requested its service provider, Aetna, to process and pay Plaintiff's health care claims that are the subject of this action. In the second notice Defendants request that the court delay ruling on the motion to amend for about 30-45 days to complete the processing of Plaintiff's claim.

Pursuant to Rule 15(a) leave to amend is to be freely given. As Defendants fail to identify any prejudice or other extraordinary circumstance warranting the denial or

1 delay in ruling on the motion to amend, the court grants Plaintiff leave to amend. The  
2 Clerk of Court is instructed to file the First Amended complaint as the operative  
3 complaint in this case.

4 **IT IS SO ORDERED.**

5 DATED: 8/16, 2007

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8 **JEFFREY T. MILLER**  
9 United States District Judge

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